

### § 762.3

### 15 CFR Ch. VII (1–1–07 Edition)

when the items are consumed or destroyed in the normal course of their use in Libya, reexported to a third country not requiring further authorization from BIS, or returned to the United States. This requirement applies only to items subject to a license requirement under the EAR for export to Libya as of April 29, 2004. These records must include the following information:

- (i) Date of export or reexport and related details (including means of transport);
- (ii) Description of items (including ECCN) and value of items in U.S. Dollars;
- (iii) Description of proposed end-use and locations in Libya where items are intended to be used;
- (iv) Parties other than specific OFAC licensee who may be given temporary access to the items; and
- (v) Date of consumption or destruction, if the items are consumed or destroyed in the normal course of their use in Libya, or the date of reexport to a third country not requiring further authorization from BIS, or return to the United States.

(2) [Reserved]

[61 FR 12900, Mar. 25, 1996, as amended at 61 FR 27258, May 31, 1996; 61 FR 65466, Dec. 13, 1996; 64 FR 17974, Apr. 13, 1999; 65 FR 14860, Mar. 20, 2000; 65 FR 42573, July 10, 2000; 68 FR 16213, Apr. 3, 2003; 69 FR 23638, Apr. 29, 2004; 69 FR 46080, July 30, 2004; 71 FR 20887, Apr. 24, 2006]

#### § 762.3 Records exempt from record-keeping requirements.

(a) The following types of records have been determined to be exempt from the recordkeeping requirement procedures:

- (1) Export information page;
- (2) Special export file list;
- (3) Vessel log from freight forwarder;
- (4) Inspection certificate;
- (5) Warranty certificate;
- (6) Guarantee certificate;
- (7) Packing material certificate;
- (8) Goods quality certificate;
- (9) Notification to customer of advance meeting;
- (10) Letter of indemnity;
- (11) Financial release form;
- (12) Financial hold form;
- (13) Export parts shipping problem form;

- (14) Draft number log;
  - (15) Expense invoice mailing log;
  - (16) Financial status report;
  - (17) Bank release of guarantees;
  - (18) Cash sheet;
  - (19) Commission payment back-up;
  - (20) Commissions payable worksheet;
  - (21) Commissions payable control;
  - (22) Check request forms;
  - (23) Accounts receivable correction form;
  - (24) Check request register;
  - (25) Commission payment printout;
  - (26) Engineering fees invoice;
  - (27) Foreign tax receipt;
  - (28) Individual customer credit status;
  - (29) Request for export customers code forms;
  - (30) Acknowledgement for receipt of funds;
  - (31) Escalation development form;
  - (32) Summary quote;
  - (33) Purchase order review form;
  - (34) Proposal extensions;
  - (35) Financial proposal to export customers;
- and
- (36) Sales summaries.
  - (b) [Reserved]

[61 FR 12900, Mar. 25, 1996, as amended at 62 FR 25469, May 9, 1997]

#### § 762.4 Original records required.

The regulated person must maintain the original records in the form in which that person receives or creates them unless that person meets all of the conditions of § 762.5 of this part relating to reproduction of records. If the original record does not meet the standards of legibility and readability described in § 762.5 of this part and the regulated person intends to rely on that record to meet the recordkeeping requirements of the EAR, that person must retain the original record.

#### § 762.5 Reproduction of original records.

(a) The regulated person may maintain reproductions instead of the original records provided all of the requirements of paragraph (b) of this section are met.

(b) In order to maintain the records required by § 762.2 of this part, the regulated persons defined in § 762.1 of this

part may use any photographic, photostatic, miniature photographic, micrographic, automated archival storage, or other process that completely, accurately, legibly and durably reproduces the original records (whether on paper, microfilm, or through electronic digital storage techniques). The process must meet all of the following requirements, which are applicable to all systems:

(1) The system must be capable of reproducing all records on paper.

(2) The system must record and be able to reproduce all marks, information, and other characteristics of the original record, including both obverse and reverse sides of paper documents in legible form.

(3) When displayed on a viewer, monitor, or reproduced on paper, the records must exhibit a high degree of legibility and readability. (For purposes of this section, legible and legibility mean the quality of a letter or numeral that enable the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readable and readability mean the quality of a group of letters or numerals being recognized as complete words or numbers.)

(4) The system must preserve the initial image (including both obverse and reverse sides of paper documents) and record all changes, who made them and when they were made. This information must be stored in such a manner that none of it may be altered once it is initially recorded.

(5) The regulated person must establish written procedures to identify the individuals who are responsible for the operation, use and maintenance of the system.

(6) The regulated person must establish written procedures for inspection and quality assurance of records in the system and document the implementation of those procedures.

(7) The system must be complete and contain all records required to be kept by this part or the regulated person must provide a method for correlating, identifying and locating records relating to the same transaction(s) that are kept in other record keeping systems.

(8) The regulated person must keep a record of where, when, by whom, and

on what equipment the records and other information were entered into the system.

(9) Upon request by the Office of Export Enforcement, the Office of Antiboycott Compliance, or any other agency of competent jurisdiction, the regulated person must furnish, at the examination site, the records, the equipment and, if necessary, knowledgeable personnel for locating, reading, and reproducing any record in the system.

(c) *Requirements applicable to systems based on the storage of digital images.* For systems based on the storage of digital images, the system must provide accessibility to any digital image in the system. With respect to records of transactions, including those involving restrictive trade practices or boycott requirements or requests. The system must be able to locate and reproduce all records relating to a particular transaction based on any one of the following criteria:

(1) The name(s) of the parties to the transaction;

(2) Any country(ies) connected with the transaction; or

(3) A document reference number that was on any original document.

(d) *Requirements applicable to a system based on photographic processes.* For systems based on photographic, photostatic, or miniature photographic processes, the regulated person must maintain a detailed index of all records in the system that is arranged in such a manner as to allow immediate location of any particular record in the system.

#### § 762.6 Period of retention.

(a) *Five year retention period.* All records required to be kept by the EAR must be retained for five years from the latest of the following times:

(1) The export from the United States of the item involved in the transaction to which the records pertain or the provision of financing, transporting or other service for or on behalf of end-users of proliferation concern as described in §§ 736.2(b)(7) and 744.6 of the EAR;

(2) Any known reexport, transshipment, or diversion of such item;